(2)

C.F100-D

IN THE HIGH COURT OF CHHATTISGARH, JUDICATURE AT

BILASPUR

WRIT PETITION NO. 1350 OF 2001

PETITIONER : Omprakash Sahu, aged about 45 years, son of Shri Puneet Ram Sahu, Sarpanch Gram Panchayat 'DULNA', Janpad Panchayat Abhanpur, Tahsil and District - Raipur (Chhattisgarh).

V E R S U S

RESPONDENTS :

1) The State of Chhattisgarh. Through : The Collector Raipur.

2) Gram Panchayat Dulna, Through : Smt Deo Kunwar Bai, UpaSarpanch, Panchayat Dulna, Janpad Panchayat, Abhanpur, Tah. and District - Raipur (CG.)

3) The Prescribed Authority, (Shri T.S. Thakur, Nayab Tahsildar) Gobhra Nawapara, Abhanpur.

P.R. No. 1434/01
Presented by Shri Pradeep Agrawal
Dated 6.8.01

PETITION UNDER ARTICLES 226/227 OF THE CONSTITUTION OF INDIA FOR ORDERS IN NATURE OF WRITS.

XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक
W.P.No.1350/2001

मामला क्रमांक ..... सन् 200

..... विरुद्ध .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	21/11/2001 Shri Kishore Badhuri, counsel for the petitioner. Shri Rajeev Shrivastava, PL for the State. Heard. Notices were issued on 3/9/2001. None represents the respondents 2 & 3 today. The matter pertains to No Confidence Motion taken up against the writ petitioner while serving as Sarpanch Gram Panchayat 'Dulna', on 11/4/2001 on which date the petitioner was removed from the post of Sarpanch. Shri Kishore Bhadhuri, learned counsel for the petitioner submits that the procedure prescribed in this regard was not followed when the No Confidence Motion was taken up. Shri Badhuri has stra&neously urged before me that Rule 3 sub-Rule (2) of Gram Panchyat Ke Sarpanch Avishwas Prastav Niyam, 1994 has not been complied with inasmuch as he was given notice only at the eleventh hour though there should have been clear 7 days. On perusal ofAnnexure P/3 it appears that notice was dated 3/4/2001 notifying that No Confidence Motion would be taken up on 11/4/2001. Shri Badhuri further submits thatsome-where the notice might have been delayed inasmuch as he received the said notice only on 9/4/2001.	

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आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

Shri Rajeev Shrivastava, learned PL for the State submits that what is contemplated under the aforesaid Rule is that notice of meeting should be despatched before seven days of taking up of No Confidence Motion. It appears to me that though the notice could have been served or could have been received by the writ petitioner earlier, unfortunately the writ petitioner received it only on 9/4/2001. However, in the facts and circumstances of the present case, in my opinion no prejudice as such can be said to have been caused to him inasmuch as he himself was present when ~~xx~~ No Confidence Motion was taken up. In my view, if the writ petitioner wanted to make a statement he could have done so. The Prescribed Authority in terms of Annexure 2 had nominated/appointed an officer to over-see the No Confidence Motion. Out of 16 members of the Panchayat, 12 members would form the majority of 2/3rd. When votes were actually cast 12 votes went in favour of the No Confidence Motion and 4 against it.

In order to satisfy myself, the record was called for including the ballot papers. I have seen the ballot papers as a lay person. Only two markings are required; one is the symbol (✓) i.e., the member who ~~wants to~~ votes in favour of the motion and the other is the symbol ~~of~~ (X) i.e., the member who ~~wants to~~ vote against the motion ~~shall affix~~.

In the present case, 12 ~~six~~ votes have been clearly cast in favour of No Confidence Motion and four against it.

GRPRJ—FS/311—1/2001—50,000.

XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

(29) 34

आदेश पत्रक

मामला क्रमांक ..... सन् 200

..... विरुद्ध .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

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Since the No Confidence Motion was carried out in a democratic way at grass root level, in my view what has been done should be honoured.

In the result, this petition fails and is accordingly dismissed. Record be handed over to Shri Rajeev Shrivastava, PL for the State today itself.

Sd/-
Chief Justice

State Records received - Free 21-11-01

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पीठ सचिव